IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 9917 of 2005(E)
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PETITIONER:
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1. NATIONAL FEDERATION OF INSURANCE FIELD WORKERS OF INDIA, KALVIT BHAVAN, S-53, CAPITAL HEIGHTS, PLAMOODU ROAD, PATTOM P.O., THIRUVANANTHAPURAM, REPRESENTED BY ITS PRESIDENT R. JAYPARAKASH.

2. R. JAYPRAKASH, (AGED 40, S/O. T. GOVINDAN NAIR) PRESIDENT, NATINAL FEDERATION OF INSURANE FIELD WORKERS OF INDIA, T.C.5/1164, KANJIRAMPARA P.O., THIRUVANANTHAPURAM-695 030, KERALA STATE.

BY ADV. SRI.S.V.RAJAN
SRI.S.ARUN RAJ

RESPONDENTS:
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1. LIFE INSURANCE CORPORATION OF INDIA, REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, YHOGAKSHEMA, JEEVAN BIMA MARG, P.B. NO.19953, MUMBAI-400 021.

2. THE EXECUTIVE DIRECTOR (MARKETING CRM/IO) LIFE INSURANCE CORPORATION OF INDIA, YOGAKSHEMA, JEEVAN BIMA MARG, P.B.NO.19953, MUMBAI-400 021.

3. THE ZONAL MANAGER, CENTRAL ZONE, "JEEVAN SHIKHA", 60-B, HOSHANGABAD ROAD, P.B.NO.28, BHOPAL-462 011, MADHYA PRADESH.

4. THE ZONAL MANAGER, THE NORTH CENTRAL ZONE, "JEEVAN VIKAS", 16/98, M.G. MARG, P.B.NO.18, KANPUR-208 001.

5. THE ZONAL MANAGER, THE EASTER ZONE,

HINDUSTAN BUILDING, 4, CHITTRANJAN AVENUE,
KOLKOTA-700 072.

6. THE ZONAL MANAGER, THE NORTHERN ZONE,
"JEEVAN BHARATHI", TOWER II, 124,
CANNAUGHT CIRCUS, P.B.NO.630, NEW DELHI-110 001.

7. THE ZONAL MANAGER, THE SOUTH CENTRAL
ZONE, "JEEVAN BHAGYA", SAIFABAD,
HYDERABAD-500 063.

8. THE ZONAL MANAGER, THE SOUTHERN ZONE,
LIC BUILDINGS, 102, ANNA SALAI,
P.B.NO.2450, CHENNAI-600 002.

9. THE ZONAL MANAGER, THE WESTERN ZONE,
"YOGAKSHEMA" EAST WING, JEEVAN BIMA MARG,
P.O.BOX NO.11709, MUMBAI-400 021.

10. GOVERNMENT OF INDIA, MINISTRY
OF FINANCE, CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS SECRETARY, NEW DELHI-1.

BY ADV. SRI.S.EASWARAN
SRI.P.K.R.MENON,SR.COUNSEL,GOI(TAXES)
SRI.GEORGE K. GEORGE, SC FOR IT
SRI.S.EASWARAN
SRI.S.EASWARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**H.L.DATTU, C.J. & K.T.SANKARAN, J.**

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**W.P(C).No.9917 of 2005**

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**Dated, this the 7th day of June, 2007**

**JUDGMENT**

**H.L.Dattu, C.J.**

First petitioner is an association of Development Officers working in the Life Insurance Corporation of India and it is espousing the cause of its members who are working as Development Officers in various branches of the Life Insurance Corporation of India.

2. Second petitioner is the president of the first petitioner association.

3. These petitioners are seeking the following reliefs:

> "(i) to declare that the rights and benefits of exemption from income tax for conveyance allowance and additional conveyance allowance paid by the 1st respondent Life Insurance Corporation of India to its Development Officers as per Section 10(4)(i) of the Income Tax Act, 1961 and Rule 2BB(i)(c) of the Income Tax Rules shall not be curtailed in any manner while deducting their income tax at source;
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> (ii) to declare that the direction in Exhibit P6 to deduct income-tax at source on conveyance allowance and additional conveyance paid to the Development Officers in Life Insurance Corporation of India issued by the 2nd respondent is unjust, arbitrary, illegal and violative of Article 14 of the Constitution of India and void;

(iii) to issue a writ of mandamus or other appropriate writ, order or direction to the respondents not to deduct the income tax at source in respect of conveyance and additional conveyance allowance paid by the 1st respondent to its Development Officers."

4. The petitioners have made out several grievances in the writ petition and the grievances so made out by the petitioners, in our opinion, are wholly imaginary. Section 10(14) of the Income Tax Act read with Rule 2BB of the Income Tax Rules makes it very clear that what can be claimed as exemption is the amount actually spent exclusively for the purpose of business as a development officer.

5. The assessee can, while filing the annual return, definitely claim exemption from payment of the income tax by producing necessary certificate issued by the employer. When such claim is made, it is expected of the assessing officer to examine those claims with reference of section 10(14) of the Income Tax Act and grant him the exemption. Therefore, the directions sought for by the writ petitioner in this writ petition need not be granted. Accordingly the following:-

**Order**

The writ petition is disposed of. Liberty is reserved to the members of the first petitioner association to claim appropriate exemption before the assessing officer at the time of filing of their return under section 132 of the Income Tax Act. When such exemptions are claimed by the assessee, the assessing authority is directed to consider the same as envisaged under

section 10(14) of the Income Tax Act read with Rule 2BB of the Income Tax Rules. Ordered accordingly.

(**H.L.DATTU)**
**CHIEF JUSTICE**

**(K.T.SANKARAN)**
**JUDGE**

mt/DK/-